

USE DETERMINATION

AUGUST 2012

USE DETERMINATION APPLICATION

A. OVERVIEW

WHAT IS A USE DETERMINATION?

Chapter 25-2 of the City Code defines and classifies land uses in order to identify which uses are allowed in each zoning district. Under Sec. 25-2-2, if a particular use is not listed within a zoning category or land use definition, and has not been previously established, the Director of the Planning and Development Review Department must determine the appropriate use classification based on the characteristics of the proposed use and the similarities of the use to other classified uses. **The Director's classification of a use into the appropriate category is a Use Determination.** The regulatory requirements and procedures for approval of a Use Determination are defined in Section 25-1-197 of the Code of the City of Austin.

WHO MAY REQUEST A USE DETERMINATION?

Anyone may request a Use Determination for a use not already established by filing an application and paying the appropriate fees, either prior to or during the development process. If a Use Determination is requested for a project that is subject to a pending development application (such as a zoning or site plan application), it is considered a Project Use Determination. If a Use Determination is requested for a project that is not subject to a pending development application, it is considered a Non-project Use Determination. A Use Determination may be requested either for a specific address or for a non-specific location.

WHO APPROVES A USE DETERMINATION?

The Director of the Planning and Development Review Department makes a written decision on a Use Determination within 14 days after receiving a request. The decision explains the factors used in making the determination, including the similarity of a use to other classified land uses, and describes any special characteristics of the Use Determination, including limitations on the size, scale, location, or intensity of the use.

WHO IS NOTIFIED OF A USE DETERMINATION?

A written response from the Director is issued to the person who requested the Use Determination. For a Project Use Determination or for a Non-project Use Determination that is associated with a particular address, notice is also mailed to property owners and utility customers, and registered environmental or neighborhood organizations within 500 feet of the proposed development. For a Non-project Use Determination that is not associated with a particular address, notice is mailed to all registered environmental or neighborhood organizations within the city limits.

WHO MAY APPEAL A USE DETERMINATION?

The applicant or any person entitled to notice of a Use Determination may appeal the Director's decision to the Board of Adjustment by filing an appeal no later than 14 days after notice is mailed.

B. REVIEW PROCEDURES

The procedures for review and approval of a Use Determination are based on Section 25-1-97 of the City of Austin Code. The process is summarized below:

STEP 1: FORMAL SUBMITTAL

City staff will verify that a Use Determination is needed prior to formal submittal of a use determination. For a Project Use Determination, the case manager will make this verification during the review process. For a Non-project Use Determination, a Development Assistance Center (DAC) staff member will make this verification before an application is submitted.

Once the need for a Use Determination has been made, the first step in the process is to submit an application packet to the Intake section of Land Use Review to start the review process. Electronic copies of the application packet are available [online](#). Applications may be submitted to Intake Monday through Friday. **An appointment is necessary.** Please contact Intake at one of the numbers listed below to schedule an appointment. For submittal, the applicant will need to provide two copies of the application along with the required fees (which will be provided to you by Intake staff).

Each application is assigned to a Case Manager who will serve as liaison between you and the City of Austin and function as your main point of contact. If you need to see your Case Manager, it is suggested an appointment be made to ensure the Case Manager is available.

Contact:

City of Austin

Land Use Review - Intake Section

505 Barton Springs Road – 4th Floor

Austin, Texas 78704

Phone: (512) 974-2681 or (512) 974-2350 or (512) 974-7208 or (512) 974-2689

Fax: (512) 974-2620

STEP 2: APPROVAL AND APPEAL

Within 14 days after receiving an application, the Case Manager will notify the applicant and the public of the Director's Use Determination. The Use Determination will also be recorded on the City's website at www.austintexas.gov. No further action will be taken on the Use Determination unless the applicant or a person who is entitled to notice disagrees with the Director's decision and wishes to appeal the decision. In that case, a person may file an application to the Board of Adjustment to appeal the Director's interpretation. An appeal must be filed along with the required fees within 14 days of the mailing date of the notice of the Use Determination. The Board of Adjustment's decision is final. An appeal form (*Application to Board of Adjustment – Interpretations*) is available [online](#). For further information, please see the instructions on the appeal form.

Contact:

City of Austin

Development Assistance Center

505 Barton Springs Road – 1st floor

Austin, Texas 78704

Phone: (512) 974-6370

Fax: (512) 974-2934

C. USE DETERMINATION APPLICATION

PROJECT INFORMATION: DEPARTMENTAL USE ONLY

FILING DATE: _____ FILE NUMBER: _____

DUE DATE: _____ CASE MANAGER: _____

APPLICATION ACCEPTED BY: _____

APPLICANT INFORMATION

Name: _____ Telephone: () _____

Address: _____

City, State and Zip: _____

Email: _____

Address (if applicable) _____

Is this determination in connection with a specific project? _____ Yes _____ No

Case number of all related cases (if applicable) _____

Description of proposed use _____

Land Use category sought (from LDC Chapter 25-2, Article 1. Zoning Uses): _____

Existing zoning _____

Case Manager or DAC staff member _____

[illegible]